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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE: ZOOM VIDEO
COMMUNICATIONS, INC.
PRIVACY LITIGATION

This Document Relates To: All
Actions

Case No. No. 5:20-cv-02155-LHK

**JOINT STIPULATED ~~PROPOSED~~
PROTECTIVE ORDER AS MODIFIED
BY THE COURT**

1. **PURPOSES AND LIMITATIONS**

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to

1 and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this
2 Order does not confer blanket protections on all disclosures or responses to discovery and that the protection
3 it affords from public disclosure and use extends only to the limited information or items that are entitled to
4 confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in
5 Section 11.3, below, that this Stipulated Protective Order does not entitle them to file confidential
6 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the
7 standards that will be applied when a party seeks permission from the court to file material under seal.

8 2. **DEFINITIONS**

9 2.1 **Challenging Party:** a Party or Non-Party that challenges the designation of information or
10 items under this Order.

11 2.2 **“CONFIDENTIAL” Information or Items:** information (regardless of how it is generated,
12 stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure
13 26(c).

14 2.3 **Counsel (without qualifier):** Outside Counsel of Record and House Counsel (as well as their
15 support staff).

16 2.4 **Designated House Counsel:** House Counsel who seeks access to “HIGHLY
17 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information in this matter.

18 2.5 **Designating Party:** a Party or Non-Party that designates information or items that it
19 produces in disclosures or in responses to discovery as “CONFIDENTIAL,” or “HIGHLY
20 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”.

21 2.6 **Disclosure or Discovery Material:** all items or information, regardless of the medium or
22 manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts,
23 and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

24 2.7 **Expert:** a person with specialized knowledge or experience in a matter pertinent to the
25 litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as a consultant
26 in this action, (2) is not a past or current employee of Zoom Video Communications, Inc. (“Zoom”) or of a
27 competitor of Zoom, and (3) at the time of retention, is not anticipated to become an employee of a

28

1 competitor of Zoom.

2 2.8 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or Items:
3 extremely sensitive "Confidential Information or Items," disclosure of which to another Party or Non-Party
4 would create a substantial risk of serious harm that could not be avoided by less restrictive means.

5 2.9 House Counsel: attorneys who are employees of Zoom. House Counsel does not include
6 Outside Counsel of Record or any other outside counsel.

7 2.10 Non-Party: any natural person, partnership, corporation, association, or other legal entity
8 not named as a Party to this action.

9 2.11 Outside Counsel of Record: attorneys who are not employees of a party to this action but
10 are retained to represent or advise a party to this action and have appeared in this action on behalf of that
11 party or are affiliated with a law firm which has appeared on behalf of that party.

12 2.12 Party: any party to this action, including all of its officers, directors, employees, consultants,
13 retained experts, and Outside Counsel of Record (and their support staffs).

14 2.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in
15 this action.

16 2.14 Professional Vendors: persons or entities that provide litigation support services (e.g.,
17 photocopying, videotaping, translating, preparing exhibits or demonstrations, and organizing, storing, or
18 retrieving data in any form or medium) and their employees and subcontractors.

19 2.15 Protected Material: any Disclosure or Discovery Material that is designated as
20 "CONFIDENTIAL," or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

21 2.16 Receiving Party: a Party that receives Disclosure or Discovery Material.

22 3. SCOPE

23 The protections conferred by this Stipulated Protective Order cover not only Protected Material (as
24 defined above), but also (1) any information copied or extracted from Protected Material; (2) all copies,
25 excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations, or
26 presentations by Parties or their Counsel that might reveal Protected Material. However, the protections
27 conferred by this Stipulated Protective Order do not cover the following information: (a) any information
28 that is in the public domain at the time of disclosure to a Receiving Party or becomes part of the public

1 domain after its disclosure to a Receiving Party as a result of publication not involving a violation of this
2 Order, including, becoming party of the public record through trial or otherwise; and (b) any information
3 known to the Receiving Party prior to the disclosure or obtained by the Receiving Party after the disclosure
4 from a source who obtained the information lawfully and under no obligation of confidentiality to the
5 Designating Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.
6 This Stipulated Protective Order also does not cover source code; the Parties agree that, in the event source
7 code becomes relevant to this litigation, the Parties will file an amended Stipulation with protections
8 sufficient for source code.

9 4. DURATION

10 Even after final disposition of this litigation, the confidentiality obligations imposed by this Order
11 shall remain in effect until a Designating Party agrees otherwise in writing or a Court order otherwise
12 directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and defenses in this
13 action, with or without prejudice; and (2) entry of a final judgment herein after the completion and
14 exhaustion of all appeals, rehearings, remands, trials, or reviews of this action, including the time limits for
15 filing any motions or applications for extension of time pursuant to applicable law.

16 5. DESIGNATING PROTECTED MATERIAL

17 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party or Non-
18 Party that designates information or items for protection under this Order must take care to limit any such
19 designation to specific material that qualifies under the appropriate standards. To the extent it is practical to
20 do so, the Designating Party must designate for protection only those parts of material, documents, items, or
21 oral or written communications that qualify – so that other portions of the material, documents, items, or
22 communications for which protection is not warranted are not swept unjustifiably within the ambit of this
23 Order.

24 Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be
25 clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or
26 retard the case development process or to impose unnecessary expenses and burdens on other parties)
27 expose the Designating Party to sanctions.

28 If it comes to a Designating Party's attention that information or items that it designated for

1 protection do not qualify for protection at all or do not qualify for the level of protection initially asserted,
2 that Designating Party must promptly notify all other Parties that it is withdrawing the mistaken designation.

3 5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g.,
4 second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery
5 Material that qualifies for protection under this Order must be clearly so designated before the material is
6 disclosed or produced. Designation in conformity with this Order requires:

7 (a) for information in documentary form (e.g., paper or electronic documents, but excluding
8 transcripts of depositions or other pretrial or trial proceedings), that the Producing Party affix the legend
9 “CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that
10 contains protected material. If only a portion or portions of the material on a page qualifies for protection,
11 and if practicable to do so, the Producing Party also must clearly identify the protected portion(s) (e.g., by
12 making appropriate markings in the margins) and must specify, for each portion, the level of protection
13 being asserted.

14 A Party or Non-Party that makes original documents or materials available for inspection need not
15 designate them for protection until after the inspecting Party has indicated which material it would like
16 copied and produced. During the inspection and before the designation, all of the material made available
17 for inspection shall be deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the
18 inspecting Party has identified the documents it wants copied and produced, the Producing Party must
19 determine which documents, or portions thereof, qualify for protection under this Order. Then, before
20 producing the specified documents, the Producing Party must affix the appropriate legend
21 (“CONFIDENTIAL,” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” to each page that
22 contains Protected Material. If only a portion or portions of the material on a page qualifies for protection,
23 the Producing Party also must clearly identify the protected portion(s) (e.g., by making appropriate markings
24 in the margins) and must specify, for each portion, the level of protection being asserted.

25 (b) for testimony given in deposition or in other pretrial or trial proceedings, that the
26 Designating Party when practical identify on the record, before the close of the deposition, hearing, or other
27 proceeding, all protected testimony and specify the level of protection being asserted. When it is impractical
28 to identify separately each portion of testimony that is entitled to protection and it appears that substantial

1 portions of the testimony may qualify for protection, the Designating Party may invoke on the record
2 (before the deposition, hearing, or other proceeding is concluded) a right to have up to 21 days to identify
3 the specific portions of the testimony as to which protection is sought and to specify the level of protection
4 being asserted. Only those portions of the testimony that are appropriately designated for protection within
5 the 21 days shall be covered by the provisions of this Stipulated Protective Order. Alternatively, a
6 Designating Party may specify, at the deposition or up to 21 days afterwards if that period is properly
7 invoked, that the entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
8 ATTORNEYS’ EYES ONLY.”

9 Parties shall give the other Parties reasonable notice if they reasonably expect a deposition, hearing
10 or other proceeding to include Protected Material so that the other Parties can ensure that only authorized
11 individuals who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at
12 those proceedings. The use of a document as an exhibit at a deposition shall not in any way affect its
13 designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

14 Transcripts containing Protected Material shall have an obvious legend on the title page that the
15 transcript contains Protected Material, and the title page shall be followed by a list of all pages (including
16 line numbers as appropriate) that have been designated as Protected Material and the level of protection
17 being asserted by the Designating Party. The Designating Party shall inform the court reporter of these
18 requirements. Any transcript that is prepared before the expiration of a 21-day period for designation shall
19 be treated during that period as if it had been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’
20 EYES ONLY” in its entirety unless otherwise agreed. After the expiration of that period, the transcript shall
21 be treated only as actually designated.

22 (c) for information produced in some form other than documentary and for any other
23 tangible items, that the Producing Party affix in a prominent place on the exterior of the container or
24 containers in which the information or item is stored the legend “CONFIDENTIAL,” or “HIGHLY
25 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. If only a portion or portions of the information or item
26 warrant protection, the Producing Party, to the extent practicable, shall identify the protected portion(s) and
27 specify the level of protection being asserted.

28 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate

1 qualified information or items does not, standing alone, waive the Designating Party's right to secure
 2 protection under this Order for such material. Upon timely correction of a designation, the Receiving Party
 3 must make reasonable efforts to assure that the material is treated in accordance with the provisions of this
 4 Order.

5 6. **CHALLENGING CONFIDENTIALITY DESIGNATIONS**

6 6.1 Timing of Challenges. Any Party may challenge a designation of confidentiality at any
 7 time. Unless a prompt challenge to a Designating Party's confidentiality designation is necessary to avoid
 8 foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the
 9 litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount
 10 a challenge promptly after the original designation is disclosed. Notwithstanding the foregoing, a
 11 Challenging Party must take reasonable measures to ensure it challenges only those parts of designated
 12 material, documents, items, or oral or written communications that do not qualify for protection.
 13 Indiscriminate challenges are prohibited. Challenges that are clearly unjustified or that have been made for
 14 an improper purpose (e.g., to impose unnecessary expenses and burdens on other parties) are prohibited.

15 6.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process by
 16 providing written notice of each designation it is challenging and describing the basis for each challenge. To
 17 avoid ambiguity as to whether a challenge has been made, the written notice must recite that the challenge to
 18 confidentiality is being made in accordance with this specific paragraph of the Protective Order. The Parties
 19 shall attempt to resolve each challenge in good faith and must begin the process by conferring directly (in
 20 voice to voice dialogue; other forms of communication are not sufficient) within 14 days of the date of
 21 service of notice. In conferring, the Challenging Party must explain the basis for its belief that the
 22 confidentiality designation was not proper and must give the Designating Party an opportunity to review the
 23 designated material, to reconsider the circumstances, and, if no change in designation is offered, to explain
 24 the basis for the chosen designation. A Challenging Party may proceed to the next stage of the challenge
 25 process only if it has engaged in this meet and confer process first or establishes that the Designating Party
 26 is unwilling to participate in the meet and confer process in a timely manner.

27 6.3 Judicial Intervention.

28 (a) If the Parties cannot resolve a challenge without Court intervention, ~~the Designating Party~~

1 ~~shall file and serve a motion to retain confidentiality under Civil Local Rule 7 the parties must submit the~~
 2 ~~dispute in accordance with Judge van Keulen's Civil and Discovery Referral Matters Standing Order~~ (and in
 3 compliance with Civil Local Rule 79-5, if applicable) within 21 days of the initial notice of challenge or
 4 within 14 days of the parties agreeing that the meet and confer process will not resolve their dispute,
 5 whichever is later. Each such ~~motion must be accompanied by a competent declaration affirming that the~~
 6 ~~movant has submission must affirm that the parties have~~ complied with the meet and confer requirements
 7 imposed in paragraph 6.2. The burden of persuasion in any such challenge proceeding shall be on the
 8 Designating Party.

9 (b) If a Challenging Party unsuccessfully challenges two confidentiality designations in Court,
 10 then, on the third and any later instances that such Challenging Party challenges a confidentiality
 11 designation, if the Parties cannot resolve such challenges without judicial intervention, ~~that Challenging~~
 12 ~~Party shall file and serve a motion to de designate under Civil Local Rule 7 the parties must submit the~~
 13 ~~dispute in accordance with Judge van Keulen's Civil and Discovery Referral Matters Standing Order~~ (and in
 14 compliance with Civil Local Rule 79-5, if applicable) within 21 days of the initial notice of challenge or
 15 within 14 days of the Parties' agreeing that the meet and confer process will not resolve their dispute,
 16 whichever is later. Each such ~~motion must be accompanied by a competent declaration affirming that the~~
 17 ~~movant has submission must affirm that the parties have~~ complied with the meet and confer requirements
 18 imposed in paragraph 6.2. The burden of persuasion shall remain on the Designating Party in this instance.

19 (c) Frivolous challenges and those made for an improper purpose (e.g., to harass or impose
 20 unnecessary expenses and burdens on other Parties) may expose the Challenging Party to sanctions. All
 21 parties shall continue to afford the material in question the level of protection to which it is entitled under
 22 the Designating Party's designation until the Court rules on the challenge.

23 7. ACCESS TO AND USE OF PROTECTED MATERIAL

24 7.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
 25 produced by another Party or by a Non-Party in connection with this case only for prosecuting, defending,
 26 or attempting to settle this litigation, and such Protected Material shall not be used for any business purpose,
 27 in connection with any other legal proceeding (unless the Designating Party agrees), or directly or indirectly
 28 for any other purpose whatsoever. Such Protected Material may be disclosed only to the categories of

1 persons and under the conditions described in this Order. When the litigation has been terminated, a
2 Receiving Party must comply with the provisions of section 12 below (FINAL DISPOSITION).

3 Protected Material must be stored and maintained by a Receiving Party at a location and in a secure
4 manner that ensures that access is limited to the persons authorized under this Order. Protected Material
5 shall not be copied or otherwise reproduced by a Receiving Party, except in connection with transmission to
6 qualified recipients, including counsel and the Court, without the written permission of the Producing Party
7 or by further order of the Court.

8 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the
9 Court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or
10 item designated “CONFIDENTIAL” only to:

11 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of
12 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this
13 litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto
14 as Exhibit A;

15 (b) the officers, directors, and employees (including House Counsel) of the Receiving Party
16 to whom disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment
17 and Agreement to Be Bound” (Exhibit A);

18 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
19 reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be
20 Bound” (Exhibit A);

21 (d) the Court and its personnel;

22 (e) court reporters and their staff, professional jury or trial consultants, mock jurors, and
23 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

25 (f) during their depositions, witnesses in the action to whom disclosure is reasonably
26 necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless
27 otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition
28 testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court

1 reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order;

2 (g) the author or recipient of a document containing the information or a custodian or other
3 person who otherwise possessed or knew the information; and

4 (h) any mediator agreed to by the Parties, and his or her staff, provided they sign the
5 “Acknowledgement and Agreement to Be Bound” (Exhibit A).

6 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information
7 or Items. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a
8 Receiving Party may disclose any information or item designated “HIGHLY CONFIDENTIAL –
9 ATTORNEYS’ EYES ONLY” only to:

10 (a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of
11 said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this
12 litigation and who have signed the “Acknowledgment and Agreement to Be Bound” that is attached hereto
13 as Exhibit A;

14 (b) Designated House Counsel of the Receiving Party (1) to whom disclosure is reasonably
15 necessary for this litigation and (2) who has signed the “Acknowledgement and Agreement to Be Bound”
16 that is attached hereto as Exhibit A;

17 (c) Experts of the Receiving Party (1) to whom disclosure is reasonably necessary for this
18 litigation, (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (3) as
19 to whom the procedures set forth in paragraph 7.4(a)(2), below, have been followed;

20 (d) the Court and its personnel;

21 (e) court reporters and their staff, professional jury or trial consultants, mock jurors, and
22 Professional Vendors to whom disclosure is reasonably necessary for this litigation and who have signed the
23 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (f) any mediator agreed to by the Parties, and his or her staff, provided they sign the
25 “Acknowledgement and Agreement to Be Bound” (Exhibit A); and

26 (g) the author or recipient of a document containing the information or a custodian or other
27 person who otherwise possessed or knew the information, unless the Designating Party objects to the
28 disclosure.

1 7.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY CONFIDENTIAL –
2 ATTORNEYS’ EYES ONLY” to Experts.

3 (a) Unless otherwise ordered by the Court or agreed to in writing by the Designating Party,
4 a Party that seeks to disclose to an Expert (as defined in this Order) any information or item that has been
5 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to paragraph 7.3 first
6 must make a written request to the Designating Party that (1) identifies the general categories of “HIGHLY
7 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information that the Receiving Party seeks permission
8 to disclose to the Expert, (2) sets forth the full name of the Expert and the city and state of his or her primary
9 residence, (3) attaches a copy of the Expert’s current resume, (4) identifies the Expert’s current employer(s),
10 and (5) identifies each person or entity from whom the Expert has received compensation or funding for
11 work in his or her areas of expertise or to whom the expert has provided professional services, including in
12 connection with a litigation, at any time during the preceding five years, ~~and (6) identifies (by name and~~
13 ~~number of the case, filing date, and location of court) any litigation in connection with which the Expert has~~
14 ~~offered expert testimony, including through a declaration, report, or testimony at a deposition or trial, during~~
15 ~~the preceding five years.~~ (b) A Party that makes a request and provides the information specified in the
16 preceding respective paragraphs may disclose the subject Protected Material to the identified Expert unless,
17 within 14 days of delivering the request, the Party receives a written objection from the Designating Party.
18 Any such objection must set forth in detail the grounds on which it is based. (c) A Party that receives a
19 timely written objection must meet and confer with the Designating Party (through direct voice to voice
20 dialogue) to try to resolve the matter by agreement within seven days of the written objection. If no
21 agreement is reached, ~~the Party seeking to make the disclosure to the Expert may file a motion as provided~~
22 ~~in Civil Local Rule 7 the parties must submit the dispute in accordance with Judge van Keulen’s Civil and~~
23 ~~Discovery Referral Matters Standing Order~~ (and in compliance with Civil Local Rule 79-5, if applicable)
24 seeking permission from the Court to do so. Any such motion submission must describe the circumstances
25 with specificity, set forth in detail the reasons why the disclosure to the Expert is reasonably necessary,
26 assess the risk of harm that the disclosure would entail, and suggest any additional means that could be used
27 to reduce that risk. In addition, any such ~~motion must be accompanied by a competent declaration~~
28 ~~submission must describing describe~~ the parties’ efforts to resolve the matter by agreement (i.e., the extent

1 and the content of the meet and confer discussions) and setting forth the reasons advanced by the
2 Designating Party for its refusal to approve the disclosure.

3 In any such proceeding, the Party opposing disclosure to the Expert shall bear the burden of proving
4 that the risk of harm that the disclosure would entail (under the safeguards proposed) outweighs the
5 Receiving Party's need to disclose the Protected Material to its Expert.

6 8. **PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER**
LITIGATION

7 If a Party is served with a subpoena by a court, arbitral, administrative, or legislative body,
8 or with a court order issued in other litigation that compels disclosure of any information or items
9 designated in this action as "CONFIDENTIAL," or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
10 ONLY" that Party must:

11 (a) promptly notify in writing the Designating Party. Such notification shall include a copy
12 of the subpoena or court order;

13 (b) promptly notify in writing the party who caused the subpoena or order to issue in the
14 other litigation that some or all of the material covered by the subpoena or order is subject to this Protective
15 Order. Such notification shall include a copy of this Stipulated Protective Order; and

16 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
17 Designating Party whose Protected Material may be affected.¹

18 If the Designating Party timely seeks a protective order, the Party served with the subpoena
19 or court order shall not produce any information designated in this action as "CONFIDENTIAL," or
20 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" before a determination by the court from
21 which the subpoena or order issued, unless the Party has obtained the Designating Party's permission. The
22 Designating Party shall bear the burden and expense of seeking protection in that court of its confidential
23 material – and nothing in these provisions should be construed as authorizing or encouraging a Receiving
24 Party in this action to disobey a lawful directive from another court.

25
26
27 ¹ The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the
28 Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or order
issued.

9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
1 LITIGATION

2 (a) The terms of this Order are applicable to information produced by a Non-Party in
3 this action and designated as "CONFIDENTIAL," or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
4 ONLY" Such information produced by Non-Parties in connection with this litigation is protected by the
5 remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a
6 Non-Party from seeking additional protections.

7 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-
8 Party's confidential information in its possession, and the Party is subject to an agreement with the Non-
9 Party not to produce the Non-Party's confidential information, then the Party shall:

10 1. promptly notify in writing the Requesting Party and the Non-Party that some or all
11 of the information requested is subject to a confidentiality agreement with a Non-Party;

12 2. promptly provide the Non-Party with a copy of the Stipulated Protective Order in
13 this litigation, the relevant discovery request(s), and a reasonably specific description of the information
14 requested; and

15 3. make the information requested available for inspection by the Non-Party.

16 (c) If the Non-Party fails to object or seek a protective order from this court within 14
17 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-
18 Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a
19 protective order, the Receiving Party shall not produce any information in its possession or control that is
20 subject to the confidentiality agreement with the Non-Party before a determination by the court.² Absent a
21 court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this
22 court of its Protected Material.

23 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

24 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
25 Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the
26 _____

27
28 ² The purpose of this provision is to alert the interested parties to the existence of confidentiality rights of a Non-Party and to afford
the Non-Party an opportunity to protect its confidentiality interests in this court.

1 Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized
2 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform
3 the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d)
4 request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is
5 attached hereto as Exhibit A.

6 11. **MISCELLANEOUS**

7 11.1 **Right to Further Relief**. Nothing in this Order abridges the right of any person to seek its
8 modification by agreement with other Parties or by applying to the Court if such agreement cannot be
9 reached.

10 11.2 **Right to Assert Other Objections**. By stipulating to the entry of this Protective Order no
11 Party waives any right it otherwise would have to object to disclosing or producing any information or item
12 on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to
13 object on any ground to use in evidence of any of the material covered by this Protective Order.

14 11.3 **Filing Protected Material**. Without written permission from the Designating Party or a Court
15 order secured after appropriate notice to all interested persons, a Party may not file in the public record in
16 this action any Protected Material. A Party that seeks to file under seal any Protected Material must comply
17 with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a Court order
18 authorizing the sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule 79-5, a
19 sealing order will issue only upon a request establishing that the Protected Material at issue is privileged,
20 protectable as a trade secret, or otherwise entitled to protection under the law. If a Receiving Party's request
21 to file Protected Material under seal pursuant to Civil Local Rule 79-5(e) is denied by the court, then the
22 Receiving Party may file the Protected Material in the public record pursuant to Civil Local Rule 79-5(e)(2)
23 unless otherwise instructed by the Court.

24 12. **FINAL DISPOSITION**

25 Within 60 days after the final disposition of this action, as defined in paragraph 4, and upon
26 notice by the Producing Party, each Receiving Party must return all Protected Material to the Producing
27 Party or destroy such material. As used in this subdivision, “all Protected Material” includes all copies,
28 abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected

1 Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written
2 certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the
3 60-day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was
4 returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts,
5 compilations, summaries or any other format reproducing or capturing any of the Protected Material.
6 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motions and
7 trial briefs (including all supporting and opposing papers and exhibits thereto), written discovery requests
8 and responses (and exhibits thereto), expert reports, deposition transcripts (and exhibits thereto), hearing and
9 trial transcripts, and exhibits offered or introduced into evidence at any hearing or trial, and their attorney
10 work product which refers to or is related to any “CONFIDENTIAL” or “HIGHLY-CONFIDENTIAL –
11 ATTORNEYS’ EYES ONLY” information for archival purposes only. Any such archival copies that
12 contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 4
13 (DURATION).

14 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

15 DATED: _____
16 Attorneys for Plaintiff

17 DATED: _____ By: _____
18

19 COOLEY LLP
MICHAEL G. RHODES (116127)
TRAVIS LEBLANC (251097)
KATHLEEN R. HARTNETT (314267)
BENJAMIN H. KLEINE 9257225)
DANIELLE C. PIERRE (300567)
JOSEPH D. MORNIN (307766)
EVAN G. SLOVAK (319409)
KELSEY R. SPECTOR (321488)

20
21
22
23
24 Attorneys for Defendant
ZOOM VIDEO COMMUNICATIONS, INC

25 PURSUANT TO STIPULATION, IT IS SO ORDERED.

26
27 DATED: _____ Susan van Keulen
28 United States District/Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
[print or type full address], declare under penalty of perjury that I have read in its entirety and understand
the Stipulated Protective Order that was issued by the United States District Court for the Northern District
of California on [date] in the case of *In re Zoom Video Communications, Inc. Privacy Litigation*, Case No.
20-cv-02155. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and
I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the
nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is
subject to this Stipulated Protective Order to any person or entity except in strict compliance with the
provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and telephone number] as my
California agent for service of process in connection with this action or any proceedings related to
enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed:

Printed name:

[printed name]

Signature: _____
[signature]